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Supreme Court, U.S.
FILED
DEC 20 1987
JOSEPH F. SPANIOL, JR.
CLERK

No. _____

IN THE

Supreme Court of the United States

October Term, 1987

JOYCE PATE,

Petitioner,

vs.

THE WORKMEN'S COMPENSATION APPEAL BOARD, (BOEING VERTOL COMPANY),

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF PENNSYLVANIA

LARRY PITT, ESQUIRE
1918 Pine Street
Philadelphia, Pennsylvania 19103
(215) 546-0011

Attorney for Petitioner

Batavia Times Publishing Co.
Darlene J. Deo
Philadelphia, Pa. (215) 564-9121

3518

Questions Presented

Did the Commonwealth Court impose a higher burden of proof on the claimant for work related disability resulting from a mental injury than is imposed on any other type of disabling work related injury thus depriving the claimant of substantive due process of law and the equal protection of the law in violation of the Constitution of the Commonwealth of Pennsylvania and the Constitution of the United States of America under the Fourteenth Amendment.

(Petitioner answers in the affirmative).

List of Parties

A Complete listing of all parties are included in the caption of the Petition For Writ Of Certiorari.

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STATUTES.

42 PaC.S. Sec. 726 5
28 U.S.C.A. Sec. 1254(1) 1

CONSTITUTION.

United States Constitution, Fourteenth Amendment, Section I 2,5

IN THE

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JOYCE PATE,

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vs.

THE WORKMEN'S COMPENSATION APPEAL BOARD, (BOEING VERTOL COMPANY),

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF PENNSYLVANIA

Statement of Jurisdiction

The Pennsylvania Supreme Court entered an order on October 19, 1987 denying Petitioner's request for Allocatur from the decision and order of the Commonwealth Court of Pennsylvania dated March 10, 1987.

This Court has jurisdiction under 28 U.S.C.A. Sec. 1254(1).

Opinions Below

The opinion of the Pennsylvania Supreme Court denying Allocatur No. 294 E.D. Allocatur Docket 1987 is not yet reported.

The opinion of the Commonwealth Court is reported at _____ Pa CMWLTH _____, 522 A.2d 166 (1987).

Constitutional Provisions Involved

United States Constitution, Fourteenth Amendment.

Section I. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person to life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

History of the Case

On April 12, 1982 claimant, Joyce Pate filed a Worker's Compensation claim petition alleging that as a result of the stresses and pressures which she experienced at work on April 27, 1981 she experienced an exacerbation of her pre-existing schizophrenic condition resulting in her disability to return to work.

On May 18, 1984 the Worker's Compensation Referee issued a decision awarding benefits to the claimant. In the decision the Referee made the following significant Findings of Fact which are supported by the evidence.

The claimant, Joyce Pate, was employed as an electronic assembler. Her work duties required her to work with small components and wires in the manufacture of helicopter parts. The work was tedious and required that the parts pass a quality control inspection.

The claimant, suffered from a pre-existing schizophrenic condition for which she had been receiving treatment from her psychiatrist, Dr. S.P. Irvins. Due to her inability to perform her work to the satisfaction of her supervisor, the claimant began to grow increasingly nervous. Her work was repeatedly rejected by the inspector requiring the claimant to complete the same part over and over again.

On April 27, 1981 the claimant's work on three plugs was rejected by her supervisor. The claimant had worked for a full week on these plugs which would ordinarily take an hour each to complete. As a result of the rejection of her work on April 27, 1981 the claimant grew sick to her stomach, developed headaches, experienced nervousness, entered a crying spell and began to hear voices. The claimant has been unable to work since April 27, 1981.

Following the Referee's award the employer filed an Appeal to the Workmen's Compensation Appeal Board.

The Workmen's Compensation Appeal Board issued a decision on November 8, 1985 reversing the Referee's decision and dismissing the claim petition.

Statement of the Reasons for Granting the Writ of Certiorari

The issues in this case concern the standards to be applied in mental injury cases in Workmen's Compensation proceedings.

The decisions of the Commonwealth Court on mental injury cases has drawn a definite, and in the instant case an explicit, distinction between psychiatric and physical injuries.

The Petitioner in this case has consistently objected to the higher burden of proof placed on psychiatric, mental and emotional injuries as opposed to physical injuries. The Petitioner believes that the distinction is unwarranted and amounts to a deprivation of her constitutional right and due process of law and the equal protection of the law under the Fourteenth Amendment to the Constitution of the United States of America.

The matter of the standard of proof to be applied to mental injury cases is a question of substance which has not yet been determined by the Pennsylvania Supreme Court. Moreover, the question surely involves an issue of immediate public importance such as would justify assumption of plinary jurisdiction under 42 PaC.S. Sec. 726 (extraordinary jurisdiction).

It is the vital importance to the health, safety and welfare of all workers in the Commonwealth of Pennsylvania that the Pennsylvania Supreme Court establish a definitive burden of proof in mental injury cases and to do so in a manner which equates disability arising from mental injury with disability arising from physical injury.

The refusal of the Pennsylvania Supreme Court to determine the Federal Constitutional issues raised in this case warrants a grant of Certiorari by the United States Supreme Court.

A petition for review was filed from the decision of the Workmen's Compensation Appeal Board to the Commonwealth Court.

On March 18, 1986 the Commonwealth Court granted the Petitioner's application for leave to proceed *in Forma Pauperis* and excused the petitioner from filing a reproduced record.

On March 10, 1987 the Commonwealth Court issued an order affirming the Workmen's Compensation Appeal Board which had earlier dismissed the Petitioner's claim petition.

On October 19, 1987 the Pennsylvania Supreme Court denied Allocatur.

This Petition For Certiorari to the United States Supreme Court then followed.

Conclusion

The Petitioner, Joyce Pate hereby requests the United States Supreme Court to grant her Writ of Certiorari and to thereby set forth a definitive burden of proof in mental injury cases in Pennsylvania under the Pennsylvania Worker's Compensation Act which is in conformity with her constitutional right to the equal protection of the law.

Respectfully submitted,

LARRY PITT, ESQUIRE
Attorney for Petitioner
Joyce Pate
1918 Pine Street
Philadelphia, Pennsylvania 19103
(215) 546-0011

APPENDIX A

Order of the Commonwealth Court of Pennsylvania

No. 3155 C.D. 1985

JOYCE PATE,

Petitioner,

v.

WORKMEN'S COMPENSATION APPEAL BOARD, (BOEING VERTOL COMPANY),

Respondents.

ORDER

NOW, March 17, 1986, upon consideration of petitioner's application for leave to proceed in forma pauperis, petitioner is excused from filing a reproduced record.

GENEVIEVE BLATT
Genevieve Blatt, Senior Judge

Certified From The Record
Mar 18 1986
C. R. Hostutler
Deputy Prothonotary - Chief Clerk

APPENDIX B

Order of the Supreme Court of Pennsylvania, Eastern District

(Seal)

SUPREME COURT OF PENNSYLVANIA
Eastern District

Marlene F. Lachman, Esq.
Prothonotary
Patrick Tassos
Deputy Prothonotary

468 City Hall
Philadelphia, PA 19107
(215) 496-4600

October 23, 1987

Larry Pitt, Esquire
1918 Pine Street
Phila., PA 19103

RE: Joyce Pate v. Workmen's Compensation Appeal Board (Boeing Vertol Company)
No. 294 E.D. ALLOCATUR DOCKET 1987

Dear Mr. Pitt:

This is to advise you that the following Order has been endorsed on your Petition for Allowance of Appeal, filed in the above captioned matter:

"October 19, 1987.

Denied.

Per Curiam."

Very truly yours,

PATRICK TASSOS
Patrick Tassos
Deputy Prothonotary

PT/rf

cc: Peter J. Weber, Esq.
Workmen's Compensation Appeal Board

APPENDIX C

Order and Decision of the Commonwealth Court of Pennsylvania

IN THE COMMONWEALTH COURT
OF
PENNSYLVANIA

No. 3155 C.D. 1985

JOYCE PATE,

Petitioner,

vs.

WORKMEN'S COMPENSATION APPEAL BOARD,
(BOEING VERTOL COMPANY),

Respondents.

Before:
Honorable James Crumlish, Jr., *President Judge*
Honorable Francis A. Barry, *Judge*
Honorable Alexander F. Barbieri, *Senior Judge*

Argued: December 9, 1986

OPINION

Opinion By
President Judge Crumlish, Jr. Filed: March 10, 1987

Joyce Pate appeals a Workmen's Compensation Appeal Board order which reversed a referee's decision and denied compensation based on a psychiatric disability. We affirm.

Appendix C—Order and Decision of the Commonwealth Court of Pennsylvania.

Pate, an electronics assembler at Boeing Vertol, was required to work with small components and wires in the manufacture of helicopter parts. Pate suffered from a pre-existing schizophrenic condition for which she had been receiving psychiatric treatment. The referee made findings of fact indicating that Pate suffered an exacerbation of her schizophrenic condition due to her supervisor's repeated rejection of her work on certain electronic components.[1] The Board reversed the referee's compensation award, finding that Pate's mental injury was a subjective reaction to a normal work situation.[2]

Pate contends initially that the Board erred[3] because she has adequately pinpointed the cause of her psychiatric disability based upon an *objective* reaction to an *abnormal* working condition. *Thomas v. Workmen's Compensation Appeal Board (Atlantic Refining Co.)*, 55 Pa. Commonwealth Ct. 449, 423 A.2d 784 (1980).

In *Thomas* this Court held that a claimant's *subjective* reaction to a *normal* work condition is not a compensable injury. We further interpreted this standard in *Hirschberg v. Workmen's Compensation Appeal Board (Department of Transportation)*, 81 Pa. Commonwealth Ct. 579, 474 A.2d 82 (1984), where we held that a claimant's distorted, subjective perceptions are not sufficient to provide the necessary causal connection between the employment and the mental injury. Although we agree that Pate has adequately identified actual (not merely perceived or imagined) employment events which have precipitated her psychiatric injury, these events do not constitute an *abnormal* working condition.

The referee's findings of fact and conclusions of law imply that having to work a full week on a task usually completed in three hours constitutes an abnormal working condition. However, the Board decided as a matter of law that such working conditions, as well as the events surrounding Pate's employment termination, were not so abnormal or unusual in relation to those of her fellow workers so as to impose workmen's compensation liability upon her employer.[4] We agree with the Board.

Our review of the record discloses no evidence that Pate's working conditions were any different from those of her fellow employees. While we recognize the tedious and painstaking nature of Pate's work task, these factors alone are not unusual for this type of employment. Nor does the testimony support a conclusion that it was abnormal or unusual for Pate's supervisors to reject work which did not meet its standards. Criticism for improper work is not *per se* abnormal when an employee has a consistently poor work performance. Therefore, we agree with the Board that workmen's compensation liability cannot be imposed upon Boeing Vertol based on Pate's inability to continue her work duties.[5] *See Moonblatt v. Workmen's Compensation Appeal Board (City of Philadelphia)*, 85 Pa. Commonwealth Ct. 128, 481 A.2d 374 (1984) (attorney for City of Philadelphia failed to prove that pressure and overcrowding of work environment was abnormal).

Lastly, Pate contends that the higher burden of proof imposed upon claimants seeking compensation for mental injuries amounts to unconstitutionally disparate treatment of psychiatric and physical injuries. We disagree.

We note initially that despite the advanced state of modern psychology, psychiatric and physical injuries are not susceptible to the same objective standard of proof. Psychiatric diagnoses are characteristically subjective in nature. Therefore, we believe that the requirement set forth in Thomas that a claimant adequately pinpoint the objective cause of a mental injury rationally relates to the governmental interest in discouraging meritless or fraudulent claims. The abnormal working condition requirement similarly deters dubious claims and, in effect, charges an employer with workmen's compensation liability only where the claimant's psychiatric injury can be traced to some abnormality in the work relationship. In light of the subjective nature of psychiatric claims, we believe that this additional, substantive burden of proving an abnormal work condition is reasonable to prevent a multitude of psychiatric injury claims based on *normal* work conditions.

Accordingly, we affirm the decision of the Workmen's Compensation Appeal Board.

JAMES CRUMLISH, JR.
James Crumlish, Jr.
President Judge

Date: March 10, 1987

Appendix C—Order and Decision of the Commonwealth Court of Pennsylvania.

FOOTNOTES

[1] The referee's Findings of Fact No. 4-8 and 12 read as follows:

> 4. The Claimant began to grow increasingly nervous due to her inability to perform her work to the satisfaction of her supervisor. The Claimant's work product was repeatedly rejected by the inspector requiring the Claimant to complete the same part over and over again.
>
> 5. On April 27, 1981, the Claimant's work on three plugs was rejected by her supervisor. The Claimant had worked for a full week on these plugs which would ordinarily take an hour each to complete.
>
> 6. As a result of the rejection of her work on April 27, 1981, the Claimant grew sick to her stomach, developed headaches, experienced nervousness, entered a crying spell and began to hear voices.
>
> 7. On April 30, 1981, the Claimant returned to the Defendant's plant and spoke to her boss Mr. Feeney. She told him that she was on the verge of a nervous breakdown because the work was getting on her nerves.
>
> 8. The Claimant did not return to work after April 27, 1981 and since that date has suffered from nervousness, headaches, and auditory hallucinations. She was on the verge of committing suicide a few times.
>
> . . . .

12. The Referee also recognized that the Defendant produced witnesses who gave testimony which differed from the testimony of Claimant, Joyce Pate. The Referee finds the testimony of Joyce Pate to be more credible and convincing than that of the other witnesses.

[2] The Board's decision stated in part:

> In this case, the claimant experienced a normal work activity at defendant's plant and, according to the claimant, could not cope with this normal activity. The claimant's duties and obligations while working for the defendant were the same as those imposed on her fellow employees. The claimant took the job with an understanding of the work duties, due to the nature of defendant's business. We see nothing abnormal and unusual in the work relationship between the claimant and the defendant in the performance of the work involved. Even though the claimant might not be able to continue with her normal work duties for the defendant, we see no workmen's compensation liability to be imposed upon the defendant and/or its insurance carrier in this case.

[3] We note that our scope of review is limited to determining whether there was an error of law or whether a finding of fact was unsupported by substantial evidence. Section 704 of the Administrative Agency Law, 2 Pa. C.S. §704. *Estate of McGovern v. State Employees' Retirement Board*, ___ Pa. ___, 517 A.2d 523 (1986).

[4] The Board may without taking additional evidence delete a referee's finding of fact when the finding is in the nature of a legal conclusion and is directly contradicted by other findings and at odds with the record. *Holy Spirit Hospital v. Workmen's Compensation Appeal Board (Gilroy)*, 46 Pa. Commonwealth Ct. 372, 406 A.2d 583 (1979).

[5] We find the instant case distinguishable from the cases cited by Pate, *McDonough v. Workmen's Compensation Appeal Board (Department of Transportation)*, 80 Pa. Commonwealth Ct. 1, 470 A.2d 1099 (1984), and *Bell Telephone Co. of Pennsylvania v. Workmen's Compensation Appeal Board (DeMay)*, 87 Pa. Commonwealth Ct. 558, 487 A.2d 1053 (1985) (both involved situations where claimants' mental injuries were due, in part, to being individually reprimanded in the presence of co-workers). No such public reprimand is evident in the record.

Appendix C—Order and Decision of the Commonwealth Court of Pennsylvania.

IN THE COMMONWEALTH COURT
OF
PENNSYLVANIA

No. 3155 C.D. 1985

JOYCE PATE,

Petitioner,

v.

WORKMEN'S COMPENSATION APPEAL BOARD (BOEING VERTOL COMPANY),

Respondents.

ORDER

The Workmen's Compensation Appeal Board order, No. A-88485 dated November 8, 1985, is affirmed.

Date: March 10, 1987

JAMES CRUMLISH, JR.
James Crumlish, Jr.
President Judge

(Seal)
Certified From The Record
And Order Exit
Mar 10 1987
C. R. HOSTUTLER
Deputy Prothonotary - Chief Clerk

APPENDIX D

Order and Decision of the Workmen's Compensation Appeal Board

COMMONWEALTH OF PENNSYLVANIA
WORKMEN'S COMPENSATION APPEAL BOARD
HARRISBURG

Docket No. A-88485

Appeal by Defendant from Order
of Referee Troilo

District No. 1

S.S. #197-24-0897

Hearing held 10/17/84

REVERSED

JOYCE PATE, *Claimant*,
1017 Hyatt Street,
Chester, PA 19013,

vs.

BOEING VERTOL COMPANY, *Defendant*,
P O Box 10858,
Philadelphia, PA 19142.

Insurance Carrier: Aetna Life & Casualty Company, 1617 John F. Kennedy Boulevard, Philadelphia, PA 19103.

Appendix D—Order and Decision of the Workmen's Compensation Appeal Board.

Claimant's Counsel: Larry Pitt, Esquire, Suite 924, Three Penn Center Plaza, Philadelphia, PA 19102.

Defendant's Counsel: Peter J. Weber, Esquire, 211 South Broad Street, Philadelphia, PA 19107.

COGNETTI, COMMISSIONER:

The defendant has appealed the decision of the referee awarding compensation to the claimant alleging that the referee committed error because any disability from which the claimant may suffer is not work-related within the meaning of the Workmen's Compensation Law.

The referee found as a fact that the claimant suffered from a pre-existing schizophrenic condition for which she received treatment from her psychiatrist. At defendants plant, the claimant had to work with small components and wires and the manufacturing of parts to be ultimately used for helicopters. The work was tedious and claimant's work had to pass a quality control inspection. The referee also found as a fact that the claimant began to become increasingly nervous due to her inability to perform her work to the satisfaction of the quality control inspection. Some of her work was repeatedly rejected by the inspector which caused claimant to work on the same part again and again. As a result of this rejection of her work, the claimant began to become sick to her stomach, become very nervous and experiences headaches, and had a crying spell. She informed her supervisor that she was on the verge of a nervous breakdown because her work was making her nervous. The claimant has not returned to work since April 27, 1981 and she has suffered from nervousness,

headaches and auditory hallucinations. The referee found as a fact that the claimant was on the verge of committing suicide a few times.

The referee found the testimony of claimant's psychiatrist more credible than defendants psychiatrist and awarded compensation based on the medical testimony that the claimant experienced an exacerbation of a chronic paranoid schizophrenia which resulted in her disability.

Mental and nervous disabilities resulting from work-related stress may be compensable injuries. A claimant's subjective reaction to being at work and being exposed to normal working conditions is not a compensable injury. A high degree a proof is required to obtain compensation for mental and nervous disabilities resulting from work-related stress. *Hammerle v. Workmen's Compensation Appeal Board*, 490 A.2d 494 (1985). In this case, the claimant experienced a normal work activity at defendants plant and, according to the claimant, could not cope with this normal activity. The claimant's duties and obligations while working for the defendant were the same as those imposed on her fellow employees. The claimant took the job with an understanding of the work duties, due to the nature of defendant's business. We see nothing abnormal or unusual in the work relationship between the claimant and the defendant in the performance of the work involved. Even though the claimant might not be able to continue with her normal work duties for the defendant, we see no workmen's compensation liability to be imposed upon the defendant and/or its insurance carrier in this case.

Appendix D—Order and Decision of the Workmen's Compensation Appeal Board.

Therefore, we hereby reverse the decision of the referee awarding compensation to the claimant and therefore dismiss the claim petition.

ANTHONY R. COGNETTI
Commissioner

CONCURRED IN BY:

(Illegible)
Chairman
(Illegible)
Chairman
(Illegible)
Chairman

APPENDIX E

Order and Decision of the Workmen's Compensation Referee

(Logo)

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF LABOR AND INDUSTRY
BUREAU OF WORKERS' COMPENSATION
3607 DERRY STREET
HARRISBURG, PA. 17111

783-5421

S.S. # 197-24-0897

CLAIM

DELAWARE CO.

Joyce Pate
1017 Hyatt St.
Chester, PA 19013

vs

Boeing-Vertol Co.
P. O. Box 10858
Philadelphia, PA 19142

Aetna Life & Casualty Co.
1617 John F. Kennedy Blvd.
Philadelphia, PA 19103

Larry Pitt, Esquire
Suite 924, Three Penn Center Plaza
Philadelphia, PA 19107

Thomas Dempster, Esquire
211 S. Broad Street
Phila., Pa 19107

6/4/84 Date of this circulation

Appendix E—Order and Decision of the Workmen's Compensation Referee.

The decision of the Referee is final unless an appeal is taken to the Workmen's Compensation Appeal Board as provided by law. Requirements for filing an appeal are contained on the back of this notice.

An appeal must be taken within *20 days* of the above date of circulation.

A copy of the decision of the following referee is herewith transmitted to you:

Fred J. Troilo

kjw

Appendix E—Order and Decision of the Workmen's Compensation Referee.

(Logo)
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF LABOR AND INDUSTRY

BUREAU OF WORKERS' COMPENSATION
Harrisburg, Pennsylvania 17111

Labor & Industry
Jun 01 1984
Bureau of Workers' Comp.

REFEREE'S DECISION

S.S. No. 197-24-0897
CLAIM PETITION

Joyce Pate
Claimant
1017 Hyatt Street
Street Address
Chester, Pa 19013
City

vs.

Boeing Vertol Company
Defendant
P.O. Box 10858
Address
Philadelphia, Pa 19142

DEFENDANT'S INSURANCE CARRIER:
Aetna Life & Casualty Company
1617 John F. Kennedy Boulevard
Philadelphia, Pa 19103

BEFORE:
Fred J. Troilo, Referee, Philadelphia District
1521 State Office Building, Phila., PA 19130

Appendix E—Order and Decision of the Workmen's Compensation Referee.

HEARINGS HELD ON: May 27, 1982 (testimony taken); October 27, 1982 (notes taken); April 29, 1983 (testimony taken); October 12, 1983 (notes taken); January 11, 1984 (no testimony); March 19, 1984 (notes taken-concluded).

COURT REPORTER:
K. Kaufman - K. Dagney - N. DiGrazio - A. Lalor

APPEARANCES:

For the Claimant:
Larry Pitt, Esquire
Suite 924
Three Penn Center Plaza
Philadelphia, Pa 19102

For the Defendant:
Thomas Dempster, Esquire
211 S. Broad Street
Philadelphia, Pa 19107

WITNESSES FOR CLAIMANT:
Joyce Pate
Betty Lewis
Dr. S.P. Ivins, (by deposition)

WITNESSES FOR DEFENDANT:
Charles Feeney
Claude Tatum
Dr. Theodore Wasserman, (by deposition)

Joyce Pate vs. Boeing Vertol Company

FINDINGS OF FACT

1. Claimant Joyce Pate was employed by Defendant, Boeing Vertol, as an electronic assembler.

2. The Claimant's work duties required her to work with small components and wires in the manufacture of parts to be used for helicopters. This work was tedious and required that the parts pass a quality control inspection.

3. The Claimant suffered from a pre-existing schizophrenic condition for which she had been receiving treatment from her psychiatrist, Dr. S.P. Ivins.

4. The Claimant began to grow increasingly nervous due to her inability to perform her work to the satisfaction of her supervisor. The Claimant's work product was repeatedly rejected by the inspector requiring the Claimant to complete the same part over and over again.

5. On April 27, 1981, the Claimant's work on three plugs was rejected by her supervisor. The Claimant had worked for a full week on these plugs which would ordinarily take an hour each to complete.

6. As a result of the rejection of her work on April 27, 1981, the Claimant grew sick to her stomach, developed headaches, experienced nervousness, entered a crying spell and began to hear voices.

7. On April 30, 1981, the Claimant returned to the Defendant's plant and spoke to her boss Mr. Feeney. She told him that she was on the verge of a nervous breakdown because the work was getting on her nerves.

8. The Claimant did not return to work after April 27, 1981 and since that date has suffered from nervousness, headaches, and auditory hallucinations. She was on the verge of committing suicide a few times.

9. The Claimant produced a witness, Betty Louis, a friend who testified that the Claimant had undergone tremendous changes since April, 1981. Mrs. Louis testified that she helps to do the Claimant's housework and shopping which the Claimant is unable to do herself.

10. The Claimant produced the deposition testimony of her treating psychiatrist, Dr. S.P. Ivins, who testified that as a result of the Claimant's work duties the Claimant experienced an exacerbation of a chronic paranoid schizophrenia which has resulted in a disability to return to her work duties for the Defendant.

11. The Defendant produced a contrary medical opinion from their evaluating psychiatrist, Dr. Theodore Wasserman. The Referee has considered all of the evidence including the medical evidence and finds the testimony and opinion of Claimant's treating psychiatrist Dr. S.P. Ivins to be more credible and convincing that the opinion of Dr. Wasserman. The Referee thereby finds as a fact that as a result of the Claimant's work duties, the Claimant developed an exacerbation of the chronic paranoid schizophrenia which has resulted in her disability since April 27, 1981.

Joyce Pate vs. Boeing Vertol Company

12. The Referee also recognized that the Defendant produced witnesses who gave testimony which differed from the testimony of Claimant, Joyce Pate. The Referee finds the testimony of Joyce Pate to be more credible and convincing than that of the other witnesses.

13. At the time of the work injury, the Claimant had an average weekly wage of $364.67 and is thereby entitled to receive wage loss disability benefits at the rate of $243.11 per week from April 27, 1981 to the present time and continuing within the context of the Pennsylvania Worker's Compensation Act.

14. In the course of the litigation, the Claimant incurred the following medical bills, costs, and expenses which are to be paid by the Defendant:

a)	Deposition fee, Dr. S.P. Ivins	$450.00
b)	Transcript deposition, Dr. Ivins	80.00
c)	Transcript hearing, 5/27/82	51.00

15. The Claimant and her attorney have entered a contingent fee agreement providing for deduction of twenty percent (20%) of all past, present and future compensation payable to the Claimant. The Referee finds this agreement fair and reasonable and in accordance with the Act and approved same.

CONCLUSIONS OF LAW

1. Both the Claimant and the Defendant are bound by the terms of the Pennsylvania Worker's Compensation Act.

2. On April 27, 1981, the Claimant Joyce Pate sustained a work-related injury while in the course and scope of her employment for the Defendant Boeing Vertol in the nature of an exacerbation of a chronic paranoid schizophrenic condition as a result of which the Claimant has remained disabled from returning to her work duties for the Defendant from April 27, 1981 to the present time and continuing.

Appendix E—Order and Decision of the Workmen's Compensation Referee.

3. As a result of the Claimant's work injury, the Claimant is entitled to receive from the Defendant wage loss compensation benefits at the rate of $243.11 per week from April 27, 1981 to the present time and continuing.

4. All compensation due and payable is to bear interest at the rate of 10% per annum until paid.

5. All medical bills, costs, and expenses as set forth in the Findings of Fact are to be paid by the Defendant.

6. Twenty percent of all past, present, and future compensation payable to the Claimant is to be deducted from Claimant's compensation and paid to Claimant's attorney as an attorney fee.

ORDER

AND NOW, TO WIT, this 18th day of May, 1984 Defendant is hereby ORDERED AND DIRECTED to pay Claimant compensation from April 27, 1981 to date and into the future at the rate of $243.11 per week.

Joyce Pate vs. Boeing Vertol Company

Defendant is also ORDERED to pay Claimant's costs stated in Findings of Fact #14.

Interest at the rate of 10% per annum on compensation due.

Appendix E—Order and Decision of the Workmen's Compensation Referee.

ORDER FOR CLAIMANT'S COUNSEL FEE

Larry Pitt, Esquire, having presented a request for the allowance of counsel fee of 20% of the Award for services rendered to the Claimant the Referee hereby finds that the requested allowance is fair and reasonable and has been approved by the Claimant. The Referee hereby approves the allowance of 20% out of the above Award as Claimant's counsel fee, and directs the Defendant to pay the said counsel fee to Larry Pitt, Esquire, attorney for Claimant, chargeable to Claimant's Award.

FRED J. TROILO
Fred J. Troilo, Referee
Philadelphia District

pas
May 21, 1984